

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE
LITIGATION

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

THIS DOCUMENT RELATES TO ALL
ACTIONS

**PLAINTIFFS' MOTION FOR LEAVE TO FILE REPLY BRIEFS IN SUPPORT OF
(1) PLAINTIFFS' MOTION TO COMPEL B. BRAUN OF AMERICA TO MAKE
SUPPLEMENTAL 30(B)(6) DESIGNATION AND
(2) PLAINTIFFS' MOTION TO ADD B. BRAUN MEDICAL, INC. AS A DEFENDANT**

Plaintiffs, by their attorneys, respectfully move this Court for a leave to file reply briefs in support of (a) Plaintiffs' Motion to Compel B. Braun of America to Make Supplemental 30(b)(6) Designation ("Motion to Compel") and (b) Motion to Add B. Braun Medical, Inc. as a Defendant ("Motion to Add").

1. Local Rule 7.1(b)(2) requires that additional papers, "whether in the form of a reply or otherwise, may be submitted only with leave of Court."

2. In its opposition to plaintiffs' Motion to Compel and Motion to Add, B. Braun of America, Inc. ("BBA") makes significant new arguments that require a response from plaintiffs. In addition, in both oppositions BBA accuses plaintiffs of willful misconduct and bad faith, including suggesting that plaintiffs violated Fed. R. Civ. P. 11 in filing the AMCC against BBA. Such misrepresentations cannot go unanswered.

3. Neither this Court nor any party will be prejudiced by the filing of these reply briefs. Plaintiffs' reply brief in support of its Motion to Compel is seven pages and plaintiffs' reply brief in support of its Motion to Add is six pages. Both lengths are appropriate for the

issues raised in BBA's oppositions and well under the 20-page limit for briefs set forth in Local Rule 7.1(b)(4).

WHEREFORE plaintiffs respectfully request that this Court grant them leave to file reply briefs in support of their Motion to Compel and Motion to Add, and all other relief that this Court deems just and proper.

Dated: September 20, 2004

By: /s/ Thomas M. Sobol
One of Plaintiffs' Counsel

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CERTIFICATE OF SERVICE BY VERILAW

Docket No. MDL 1456

I, Thomas M. Sobol, hereby certify that I am one of plaintiffs' attorneys and that, on September 20, 2004, I caused copies of Plaintiffs' Motion for Leave to File Reply Briefs in Support of (1) Plaintiffs' Motion to Compel B. Braun of America to Make Supplemental 30(b)(6) Designation and (2) Plaintiffs' Motion to Add B. Braun Medical, Inc. as a Defendant to be served on all counsel of record by causing same to be posted electronically via Verilaw.

Dated: September 20, 2004

/s/ Thomas M. Sobol

Thomas M. Sobol